

# LEGISLATIVE UPDATE

Volume 6

April 12, 1996

Number 11

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## FINAL END OF SESSION REPORT

This end of session report documents the final actions taken by the Governor and legislature on health related bills enacted during the 1996 regular legislative session.

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## 1996 SUPPLEMENTAL OPERATING BUDGET ESSB 6251 CHAPTER 283, LAWS 1996, PV

### Department of Health (Dollars in Thousands)

#### 1996 Supplemental Items:

1. Nurse Delegation Study (ESHB 1908)	70
2. Retrospective Rating Refund	62
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1. Nurse Delegation Study (ESHB 1908) - Funding is provided for a study that determines any effect on the health and safety of residents of facilities that practice nurse delegation as required by Chapter 18, Laws of 1995, 1st Special Session.

2. Retrospective Rating Refund - This item is the amount of the Department of Labor and Industries Retrospective Rating Refund that is available to the Department of Health. The Department of Health will use the funds to continue improvements in the agency's employee safety and emergency preparedness and response program. (Industrial Insurance Premium Refund Account-State)
  3. Surveillance Enhancement Program - This item provides federal appropriation authority for approximately two years of a five year federal grant to improve disease surveillance in Washington State. Systems to collect data, disseminate information and report the existence of diseases will be developed and implemented under this program. (General Fund-Federal)
  4. Medically Recommended New Vaccine - This item provides funding for purchase of vaccines for diseases not currently included in Washington State's childhood vaccination program. These additions are proposed in order to maintain compliance with federally recognized vaccination standards. Diseases included in this request are hepatitis B, hepatitis A, influenza, varicella and pneumococcal and only those children at high risk for the disease will be vaccinated. (Health Services Trust Account-State)
  5. Health Clinic For Immigrants - This item provides federal funding from the State Legalization Immigration Assistance Grant to start a health clinic intended to serve immigrants.
  6. Immunization Tracking - This item funds development of a plan for analyzing the progress of the four counties with child profile immunization tracking systems and making recommendations for expanding the project to other counties. The department shall create the plan and make recommendations to legislature on the proposed timeline for expansion. A report is due by July 1, 1997.
  7. Speech and Hearing Professions Regulation - This item funds 2ESHB 2309, Regulation of Hearing and Speech Professions. The bill creates a regulatory program for audiologists and speech pathologists and changes the program for hearing aid fitters/dispensers. All funding is provided through fees charged to members of the profession. (Health Professions Account)
  8. Medicinal Research - This item funds a study to be performed by the Board of Pharmacy to determine the effects of medicinal tetrahydrocannabinol (THC). This study is to be performed in connection with a Washington State University research project to examine a tamper-free means of cultivating effective and safe THC plants for medicinal purposes.
- In addition, the following programs are authorized using existing revenues:
- The department may use any of a variety of strategies for raising public awareness on the causes and nature of osteoporosis.
  - The department is directed to continue the testing program for the presence of domoic acid.

- \$8,000 of the general fund state appropriations are dedicated for a study to be completed by the board of health on the current and potential use of telemedicine in the state.

## **SUPPLEMENTAL BUDGET ITEMS RELATED TO THE DEPARTMENT OF HEALTH INCLUDED IN OTHER STATUTE AGENCY BUDGETS**

The following encapsulates items of interest in the budgets for other state agencies.

### **Legislative Budget Committee**

A survey of school nurses and other health care workers in the public schools will be conducted.

### **Office of the Governor**

- Children's Services Reorganization.  
\$1,100,000 is provided to direct a management improvement project for the Division of Children and Family Services (DCFS), examine substance abuse and its impact on families and DCFS delivery of services, and develop a strategic plan.
- A Child, Youth, and Family Ombudsman is established to investigate complaints regarding state children and family services programs and to review reports relating to unexpected deaths of children under the care of the DSHS.

### **Department of Community, Trade, and Economic Development**

\$2,000,000 in federal funding will be used to develop and operate housing for low-income farmworkers. The Department of Community, Trade, and Economic Development will administer the funds through the Housing Assistance Program in

cooperation with the Department of Social and Health Services, the Department of Health, and the Department of Labor and Industries.

### **Public Health and Safety Networks**

\$327,000 is provided to fund the cost of operation for the Public Health and Safety Networks from the approval of each Network's plan through the end of fiscal year 1997. Networks may not receive funds until their plan is approved.

### **Department of Social and Health Services, Medical Assistance Payments**

\$4,600,000 is provided to reimburse designated trauma centers at the higher, Medicaid rate for severe trauma services provided to medically indigent and general assistance patients. This higher reimbursement is provided as an incentive for hospitals to participate in the statewide trauma care system.

### **Department of Agriculture**

\$120,000 is provided for two additional Food Safety Officers to conduct an additional 500 food processor inspections annually, thereby reducing food safety risks.

### **Public Schools**

\$450,000 is provided to TEEN AWARE for media productions by students to focus on issues and consequences of teenage pregnancy and child rearing.

### **House and Senate**

\$30,000 is provided for a legislative study of lake health issues as provided in ESSB 6666.

## **DEPARTMENT OF HEALTH - BILL WATCH**

The following are short summaries of major legislation that DOH has been tracking during the 1996 legislative session that have received executive action.

### **PROFESSIONAL LICENSING**

**HB 2126a - Inactive License for Dentists (Chapter 187, Laws of 1996)** Allows the Dental Quality Assurance Commission to establish an inactive license status for dentists. Dentists cannot practice while in an inactive status, but can reactivate their license under procedures to be adopted by the Commission.

**SHB 2151a - Uniform Licensing Procedures - Department of Health request legislation (Chapter 191, Laws of 1996)** (1) Uniform Licensing Procedures: Authorizes the Secretary of Health to adopt rules pertaining to such administrative issues as application forms, scheduling of examinations, license renewal periods, late renewal penalties and required documentation accompanying license applications. At present these items are addressed separately by 15 independent boards and commissions.

Ensures that impacted boards and commissions, as well as interested external parties, will be consulted prior to the adoption of any rules. Clarifies that the authority transferred to the Secretary pertains to administrative procedures only and not to disciplinary matters, scope of practice or qualifications for licensure. This transfer of rule-making authority will sunset on July 1, 1998 unless specifically reauthorized by the Legislature.

(2) Domestic Violence Program: Within available funds, DOH will establish a program to educate health professionals about appropriate identification, treatment and referral of victims of domestic violence. A disciplinary authority may authorize expenditures from the health professions account for education programs or may charge a fee to professions who participate in a sponsored program.

(3) Address Disclosure: Prohibits the department from disclosing a licensee's residential address unless specifically authorized by the licensee, or unless an educational or professional organization requests lists of licensees to be used for non-commercial purposes.

**HB 2152a - Adult Family Home Provider/Operator Registration - Department of Health request legislation. (Chapter 81, Laws of 1996)** Clarifies and eases implementation of a law passed last year that would require adult family home providers to register with the Department of Health. Ensures that both adult family home "providers" who own and sometimes also operate a home, and "resident managers" who are hired to run day-to-day operations are covered by the registration requirement. Also requires the Department of Social and Health Services to review multiple-facility operations to ensure financial solvency, management experience, and ability to meet other operating standards.

**SHB 2188a - Physician License Revocation (Chapter 195, Laws of 1996)** - Allows a physician whose license has been revoked by a panel of the Medical Quality Assurance Commission to request a review by the remaining members of the Commission who were not involved in initial investigation of

the case. The Commission shall adopt procedural rules for such reviews.

**SHB 2309a - Certification of Audiologists and Speech Language Pathologists (Chapter 200, Laws of 1996)** - Establishes a voluntary certification program for audiologists and speech-language pathologists. Certified audiologists may fit and dispense hearing instruments without obtaining licenses as hearing instrument fitters/dispensers. Qualification for certification as an audiologists or speech pathologist includes a minimum of a master's degree, as well as supervised clinical experience, postgraduate work, and successful completion of an examination. Currently practicing audiologists or speech-language pathologists who meet the minimum qualifications and who apply for certification before July 1, 1997, are not required to take the examination.

The Board of Fitting and Dispensing of Hearing Aids becomes the Board of Hearing and Speech, with a change of membership to reflect the expanded number and types of professionals governed by it. Provisions regarding apprenticeships for hearing instrument fitters/dispensers are modified. The Board is required to study the utilization of audiologist and speech language pathologist assistants and the merits of establishing a two-year entry level degree for fitters/dispensers. A report is due to the Legislature by January 1, 1998.

**SHB 2371a - License Suspension/Failure to Repay Student Loans (Chapter 293, Laws of 1996)** - Requires the department to suspend a professional's license if the person is certified by a lending agency and reported to the department to be in default or nonpayment of a federal or state-certified education loan or service conditional

scholarship. The department must provide the person an opportunity to respond through a brief administrative proceeding. A suspended license is not reissued until the person provides the department with a written release from the lending agency, at which time the reissuance is automatic upon payment of a reinstatement fee.

**HB 2623a - Single Identifier for Controlled Substances (Chapter 255, Laws of 1996)** - Requires the use of a single name by persons obtaining controlled substances by prescription in order to prevent attempts to illegally obtain prescriptions under multiple names. If someone legally changes their name, they must inform health care providers so that medical and pharmacy records can be appropriately changed.

**EHB 2735 - Exemptions from Certificate of Need for Certain Nursing Home Projects (Chapter 50, Laws of 1996)** - Allows certain construction or renovation projects on an existing nursing home to be exempt from undergoing Certificate of Need review. This exemption applies to projects that change physical plant facilities, such as administrative, dining, laundry, kitchen or therapy areas, and that are undertaken by an existing licensee who has operated the nursing home beds for at least one year.

**2SSB 5417a - Abandonment of Dependent Persons (Chapter 302, Laws of 1996)** - Strengthens the laws protecting dependent persons from abandonment by caregivers by creating three degrees of the crime of criminal abandonment. Allows a defense against a charge of criminal abandonment if the caregiver gave reasonable notice of termination of services and did not terminate services until after the notice period had expired. DOH and DSHS are required to adopt rules establishing procedures for

appropriate termination of services to dependent persons.

**SCR 8429 - Committee on Oral Health**

**Care** - Creates a joint select committee on oral health care, consisting of four legislators, two members selected by an organization representing dentists, and two selected by an organization representing dental hygienists. The committee will identify barriers to access to oral health care services, including financial regulatory or administrative barriers, and will recommend solutions. Their report is due to the legislature December 1, 1996.

**ENVIRONMENTAL HEALTH**

**ESHB 2703 - Coordination of Worker Protection Standards Regarding**

**Pesticides (Chapter 260, Laws of 1996) -**

The intent section of the bill states that the Departments of Labor & Industries and Agriculture are to coordinate implementation and enforcement of worker protection standards, and directs the agencies to coordinate investigations with DOH investigations of health and safety or pesticide exposure reports in order to reduce the number of multi-agency on-site visits. The substantive portions of the bill deal with rule-making authority and standard-setting between L & I, AG, and EPA.

**SHB 2733 - Regulation of Well Drilling**

**(Chapter 12, Laws of 1996)** - Extends the authority of the Department of Ecology to delegate portions of well-drilling administration and enforcement to local health jurisdictions and counties. Clarifies that DOE can delegate such authority until December 31, 2000.

**ESHB 2875a - Puget Sound Action**

**Team/Puget Sound Council (Chapter 138,**

**Laws of 1996)** - Replaces the Puget Sound Water Quality Authority with a Puget Sound Action Team, made up of directors of 10 state agencies (including the Secretary of Health), two local government representatives, and a full-time chair appointed by the Governor and housed in the Governor's Office. The Action Team will prepare a workplan and budget, coordinate monitoring and research programs, periodically amend the Puget Sound Plan, and provide biennial updates on the progress of the plan in addressing priority problems. The workplan is to identify and prioritize local and state actions necessary to address water quality problems in 5 geographic areas. The Puget Sound ambient monitoring program, including research and monitoring using quantifiable performance measures, is to be included in the workplan.

A Puget Sound Council is also created, consisting of 7 public members appointed by the Governor, and two legislators. The Council will recommend activities to be included in the workplan, recommend amendments to the Puget Sound Plan, and monitor progress of implementation.

One million dollars is provided for grants to local governments for on-site sewage system projects or programs identified in local watershed action plans. The grant program is administered by the Department of Ecology.

**ESSB 6666a - “Lake Health” Plan (Chapter 316, Laws of 1996)** - Until April 1, 1998, requires the Department of Ecology (DOE) 567 to expedite permits for use of pesticides or herbicides in certain lakes in order to control nuisance weeds. DOE may require sampling by the local health department to assess the biological effects of the pesticide use and effects on human and animal health of toxic algae. Requires development of a long-term plan to address lake management and lake health issues, which is undertaken by a committee of the legislature. The committee will consult with lakeside homeowners, lake users, local health departments, scientists, and various state agencies (including DOH) in the development of this plan.

### **REGULATORY REFORM**

**SHB 2386a - Agency Technical Assistance (Chapter 206, Laws of 1996)** - When an agency issues a “notice of correction” if a violation of a law or rule is discovered during an on-site inspection, the notice must contain a copy of the text of the law or rule that has been violated. Also, whenever an agency adopts a new policy statement or interpretive statement, a description must be filed with the Code Reviser along with the appropriate contact person.

**HB 2567a - Permit Action Notice to County Auditors (Chapter 254, Laws of 1996)** - State permit agencies (including the Department of Health) must forward to the appropriate County Auditor a copy of a final decision on a permit sought from the agency that is in connection with a land use or environmental permit or license requested from a local government.

**ESB 6702 - Joint Administrative Rules Review Committee (Chapter 318, Laws of 1996, partial veto)** - Modifies various provisions pertaining to the operations and procedures used by the Joint Administrative Rules Review Committee (JARRC).

**Provision vetoed:** Creates a presumption of invalidity of an agency rule in a legal challenge to the rule’s validity if JARRC has recommended to the Governor that the rule be suspended because it does not conform with the intent of the Legislature.

### **DISEASE PREVENTION & CONTROL**

**EHB 2452a - Control of Tuberculosis (Chapter 209, Laws of 1996)** - Makes explicit that local health officers have responsibility for treatment of tuberculosis. Adjusts reporting timeframe for TB to one day. Individuals who choose to rely on religious methods of treatment are exempted from mandatory treatment; they may, however, be quarantined., and individuals may be isolated or quarantined in the place of their choosing, provided the location is approved by the local health officer and meets specified requirements.

**ESHB 2828 - Wireless Telephone Regulation (Chapter 323, Laws of 1996)** - Requires DOH to survey the scientific literature regarding possible health effects of human exposure to certain electromagnetic fields. Establishes the department of health as the state agency that follows the issues and compiles information pertaining to potential health effects from wireless telecommunications facilities. Siting of personal wireless cellular structures are exempted from SEPA requirements if the antennas to be sited (1) are microcells to be attached to an existing

structure that is not a residence or school and does not contain a residence or school; (2) are other antennas to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and that is not located in a residential zone; or (3) involve constructing a cellular tower less than 60 feet in height that is not located in a residential zone. In addition, the project must not be in a designated environmentally sensitive area. The siting of such antennas is still subject to the local land-use permitting process.

**ESSB 6285a - Offender HIV Test Results (Governor vetoed)** - Would have required disclosure of offender's court ordered HIV test results to the Department of Corrections (DOC) and jail administrators. Recognized that "universal precautions" is the best method to assure non-exposure of HIV through occupational transmission. Would have required DOC and local jails to develop communicable diseases profiles for offenders tested under RCW's 70.24.340; 70.24.360; and 70.24.370 without identifying the specific disease.

The Governor vetoed **ESSB 6285a** on the basis that the only proven protection against exposure to the HIV virus is the use of the universal precautions. The Governor's veto message stated that "these precautions should be used by corrections officers and jail staff at all times and with all inmates. ESSB 6285 is fundamentally flawed in that it implies extra care should be taken with some inmates, rather than uniform caution with all inmates.

"It would be a mistake to give our corrections officers and jail staff a false sense of security by identifying only some of the inmates who carry infectious diseases.

Posting the names of inmates whose statutorily mandated HIV tests were positive will not protect corrections officers or jail staff from inmates whose voluntary tests were positive or from those who have not been tested.

"We should not place our valued public servants in further jeopardy by tempting them to treat some inmates with less than universal precaution because they are unaware of the possible threat from others. Currently, in the event a situation does occur which results in substantial exposure to bodily fluids, both corrections officers and jail staff are able to obtain confidential test results or to mandate testing, if necessary, to protect their own health.

"In an effort to address the legitimate health and safety concerns of corrections officers, I am directing DOC to increase its efforts to provide these officers with sufficient information and training to assist their understanding of the importance of using universal precautions at all times. I am also directing DOC, in consultation with the Department of Health (DOH), to modify its existing policy to eliminate the use of "protocols" issued in relation to particular inmates.

"In addition, I encourage local public health officials, in consultation with DOH, to work with local governments to provide local jail staff with information and training regarding universal precautions and other appropriate methods of protecting their health and safety. Until there is a cure, the only way for these valued public servants to remain healthy and safe is to maintain universal precaution."



## **FAMILIES & CHILDREN**

**HB 2531 - Child Abuse and Neglect Council (Chapter 10, Laws of 1996) -** Adds the Secretary of Health to the State Child Abuse Council.

**2SSB 5258a - Community Health and Safety Networks (Chapter 132, Laws of 1996) -** Network membership is modified to ensure the citizen members live within the network boundary. The other representatives may either live or work within the network boundary. Public education representatives are guaranteed membership on the networks and judges are removed from the membership. New procedures are included to assist the networks in filling network membership vacancies. Members cannot vote on any expenditures in which their immediate family members may have a fiduciary interest.

Sources of funds available to the networks are clarified. Networks must hold their administrative costs to 10 percent and cannot provide services or operate programs. Each network must file an annual report relating to their expenditures and contracted services and program.

In developing the comprehensive plan, the networks must consider increasing youth employment and job training opportunities. Networks shall also integrate local programs into their plan when they fit the network's priorities and they are deemed successful by the network.

Network members are immune from civil liability arising from their decision-making as members, excepting intentional tortious acts or acts of official misconduct. The assets of a network are not subject to

attachment or execution in satisfaction of a judgment.

**ESSB 6120a - Maternity Services Insurance Benefits (chapter 281, Laws of 1996) -** Sets forth legislative intent as recognizing patient preference, the clinical sovereignty of providers, and health carriers' need to utilize managed care strategies. Health carriers that cover maternity services are required to permit the attending provider to make decisions on the length of inpatient stay. Coverage must include inpatient, post-delivery care and follow-up services provided by an attending provider, a home health provider, or a registered nurse to a mother and her newly born child for such care as ordered by the attending provider in consultation with the mother. If funds are available, the Washington Health Care Policy Board must conduct an analysis of the effects of this act and report to the legislature by December 15, 1998. States that the bill is to be known as "the Erin Act."

## **INJURY PREVENTION**

**SSB 6229 - Infant Crib Safety (Chapter 158, Laws of 1996) -** Commercial users may not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet, or otherwise place in the stream of commerce, a crib that is unsafe for an infant. Any crib is presumed to be unsafe if it does not comply with federal regulations under the federal Consumer Product Safety Commission and the American Society for Testing Materials Voluntary Standards. Provisions are effective January 1, 1997 except for hotels, motels, and other transient lodging, child care facilities, and family child care homes which are not subject to penalties or civil law suits until January 1,

1999. Informational material on baby crib safety will be available to consumers through the Department of Health.

## **FISCAL**

### **E2SHB 2222 - Strengthening Legislative Oversight of Government Programs**

**(Chapter 288, Laws of 1996, partial veto)**

- The Legislative Budget Committee (LBC) is renamed the Joint Legislative Audit and Review Committee (JLARC), with proportional membership from each house along the framework of the LBC. Serves as the appointing authority for the Legislative Auditor.

JLARC has the authority to develop a performance audit work plan for the last 16 months of each biennium, beginning with 1997. Performance Audits may be conducted on state agencies or units of local government receiving state funding. Local government audits are restricted to whether the local government is using state funds as proscribed. In agencies and programs where performance measurement already exists, the measurements must be the basis of the audits performed.

A performance audit is defined as an objective and systematic assessment of an activity performed by a state agency or unit of local government in order to help improve efficiency, effectiveness and accountability. The Legislative Auditor is the principal officer involved in performing performance audits.

Performance audits, when completed are approved by JLARC with comment by JLARC included as a separate addendum. Copies are then forwarded to the affected agency or unit of local government, the

Director of Financial Management and the leadership and appropriate standing committees of each house. results must be published and the report must be made available to the general public.

Within nine months of the audit, the JLARC in consultation with the appropriate standing committees may issue a preliminary compliance report. The report is based on the recommendations within the audit report.

**Provisions vetoed:** The Governor vetoed three sections of **E2SHB 2222** regarding funding for performance audits, new authority for the Legislative Auditor to access agency records or information that are related to performance audits or other responsibilities of the legislature and the requirement that audit findings be given consideration in the Governor's budget document.

### **SHB 2778 - Providing Sales and Use Tax Exemptions for Farmworker Housing**

**(Chapter 117, Laws of 1996)** - The sales tax does not apply to labor and services rendered in constructing, repairing, decorating, or improving new or existing buildings or other structures used as agricultural employee housing.

The sales tax does not apply to sales of tangible personal property that become ingredients or components of new or existing agricultural employee housing, if the buyer provides the seller with an exemption certificate prescribed by the Department of Revenue. The use tax does not apply to sales of tangible personal property that become ingredients or components of new or existing agricultural employee housing.

The sales and use tax exemptions apply only to year-round housing for agricultural employees, if that housing is built according to the state building code. Agricultural employee housing must be used to house agricultural employees for at least five years from the date the housing is approved for occupancy. Housing built for family members and people with an ownership in the farm is not eligible for the tax exemptions.

**ESSB 6251a - Supplemental Operating Budget (Chapter 283, Laws of 1996, partial veto)** - Makes supplemental appropriations to the 1995-97 operating budget. (Please see budget article on page 1.)

**ESSB 6680a - Strengthening Legislative Review of Agency Performance (Chapter**

**317, Laws of 1996, partial veto)** - Each state agency is required to adopt procedures for continuous self-assessment using its mission, goals, and performance measurements. The Office of Financial Management will institute a system of performance based budgeting and assist agencies in the development of performance measurement systems. The Washington Performance Partnership is repealed.

**Provisions vetoed:** The Governor vetoed twelve sections of this bill including all sections creating the Legislative Committee on Performance Review (LCPR). Citing serious overlaps with the LBC and the JLARC (see E2SHB 2222), the Governor determined that the LCPR was redundant.

**LEGISLATIVE UPDATE** is published weekly during the Washington State Legislative Session and provides information and news about legislation pertinent to the health of Washington State citizens.

**LEGISLATIVE UPDATE** is published by the Washington State Department of Health, Office of Legislative and Constituent Relations.

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Published by the  
Office of Legislative &  
Constituent Relations

P.O. Box 47890  
Olympia, WA 98504-7890

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